

SERVED OCTOBER 31, 2008

DEPT. OF TRANSPORTATION
DOCKETS

U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

IN THE MATTER OF

NEW ENGLAND TRUCK MASTER INC.,
Respondent.

FAA DOCKET NO. CP08SO0020
(Civil Penalty Action)

DMS NO. FAA-2008-1047

**ADMINISTRATIVE LAW JUDGE'S PREHEARING
ORDER ESTABLISHING PROCEDURES**

This case has been assigned to me for the conduct of the hearing and other procedural steps as prescribed by the Department's Rules of Practice in Enforcement Proceedings. The full text of the Rules of Practice is found in 14 C.F.R. §§ 13-201-13.233.¹ In order to expedite the consideration and disposition of the issues, the following principles and procedures will be followed:

1. Appearances. Each party is required to send me as promptly as possible, a notice of appearance of the person or persons who will represent that party during this proceeding. The notice should include the representative's name, mailing address, telephone number, telefax number, and e-mail address. The appearances should be kept current.

2. Filing. All documents, pleadings, etc. required to be filed should be sent to:

¹ The Rules of Practice, as well as other materials relating to civil penalty cases, are available on the Internet at the following address:
http://faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/AGC400/Civil_Penalty/.

U.S. Department of Transportation
Docket Operations, M-30
Room W12-140
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

A copy of the document should also be sent to me.

3. Mail. Although the Procedural Rules provide for service of papers by mail, the punctuality of the U.S. Postal Service's delivery of mail to offices in the Department is uncertain. When you send a notice or other pleading to me, you should use a private delivery service and/or provide me with a courtesy copy by e-mail or telefax.² My mailing address is:

Isaac D. Benkin
Administrative Law Judge
Office of Hearings
Department of Transportation (M-20)
Room E12-320
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

4. Time and place of the hearing. In their notices of appearance, the parties should advise me of their preferences as to the location and date of the hearing. I will take these preferences into account when I set the date and place of the hearing. I have tentatively scheduled this case for hearing on January 27, 2009 in Hartford, Connecticut. If you wish a change in this date or location, please notify me within the next 30 days.

5. Extensions of time. If you plan to seek an extension of the deadline for filing of a document or taking of an action, please first contact opposing counsel to find out whether there will be an objection to the request. Also, seek to secure agreement on an alternate date and time that is acceptable to all parties. I normally accept counsel's representation that there is no objection to a request for more time.

6. Answer. Under the Procedural Rules, the Respondent is required to serve a formal answer to the complaint within 30 days of the date the

² My fax number is (202) 366-7536. My e-mail address is david.benkin@dot.gov.

complaint was filed. If a timely answer is not filed, the Respondent may be deemed to have admitted the allegations of the complaint, and a summary judgment may be entered in favor of the Federal Aviation Administration.

7. Discovery. Discovery should begin promptly after the answer is filed. It should be completed within 60 days from the date the answer is filed. The deadline for completion of discovery may be extended only for good cause shown. If a party objects to one or more discovery requests, it may file a motion for a protective order, attaching or incorporating the discovery request or requests to which it objects. If a party is dissatisfied with a response to discovery, it may file a motion to compel, attaching or incorporating the discovery requests to which its motion relates. Except when discovery is contested, please do not send me a copy of your discovery requests or the responses thereto.

8. Exchange of witness lists and proposed exhibits. Not later than two weeks before the beginning of the hearing, parties are required to exchange lists of their witnesses, together with a brief statement of the subject matter on which each witness will testify. In the case of an expert witness, a resume of the witness's relevant education, training, experience, and other qualifications shall be furnished. In addition, parties are required to exchange copies of documents they intend to offer in evidence. A copy of the proposed exhibits and witness lists should be sent to me at the same time it is served.

9. Settlement. I encourage the parties to settle the case if it is possible to do so. The parties should discuss the possibility of settlement as soon as possible after the answer is filed and again after discovery is completed. If a settlement is reached, the parties should notify me as soon as possible. I cannot remove the case from the hearing docket, however, until I have received a written withdrawal of the complaint executed by the Complainant or a written withdrawal of the request for a hearing executed by the Respondent.

10. Contacts with the judge. I cannot and will not discuss the case with any party, or its representative, on an ex parte basis. If a party has non-substantive matters it wishes to discuss, please contact my attorney-advisor, Ms. Shelley A. Hession. Her telephone number is (202) 366-3623.

A handwritten signature in black ink, appearing to read "Isaac D. Benkin". The signature is fluid and cursive, with the first name "Isaac" and last name "Benkin" clearly distinguishable.

Isaac D. Benkin

Administrative Law Judge

SERVICE LIST

ORIGINAL & ONE COPY

Hearing Docket
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591
Att: Hearing Docket Clerk, AGC-430
Wilbur Wright Building – Room 2014³

ONE COPY

New England Truck Master
55 Access Road
Stratford, CT 06615

Andrea Michelle Harper, Attorney
Federal Aviation Administration
Office of the Regional Counsel, ASO-7
Southern Region
P.O. Box 20636
Atlanta, Georgia 30320
TEL: (404) 305-5200
FAX: (404) 305-5223

The Honorable Isaac D. Benkin
Administrative Law Judge
Office of Hearings, M-20
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Room E12-358
Washington, DC 20590
TEL: (202) 366-2132
FAX: (202) 366-7536

³ Service was by U.S. Mail. For service in person or by expedited courier, use the following address: Hearing Docket, Federal Aviation Administration, 600 Independence Avenue, S.W., Wilbur Wright Building – Room 2014, Washington, DC 20591, Att: Hearing Docket Clerk, AGC-430.